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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,112	09/11/2000	Arthur Cameron Wilson	9D-RG-19254	4522

7590

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EXAMINER

COCKS, JOSIAH C

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/659,112

Applicant(s)

WILSON, ARTHUR CAMERON

Examiner

Josiah C. Cocks

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings filed with the application on 9/11/00 are accepted by the examiner for examination purposes. However, these drawings appear informal. Formal drawings will be required when the application is allowed.

Claim Suggestions

2. Claim 4 recites "said portion" in lines 3-4. This recitation is referring to the first portion; however, applicant has introduced both first and second portions in claim 1. For clarity, the recitation of "said portion" in claim 4 should be amended to read --said first portion--.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Koziol* (Us # 4,848,217) in view of *Carpenter et al.* (US # 3,266,484).

Koziol discloses in Figures 1-5 an oven rack including a first portion (first section of V-shaped grid) and a second portion (second section of V-shaped grid). While not expressly

disclosed as extending obliquely, the second portion of the generally V-shaped construction (see col. 1, lines 55) is regarded by the examiner to be the equivalent of “extending obliquely” as recited in applicant’s claim 1. *Koziol* further discloses a support system including multiple support legs (see both 13 and 19) and handle members (18). *Koziol* also discloses that the first portion includes a plurality of first rods (12) and second rods (15 and 16) attached substantially perpendicularly to the first rods wherein the first and second rods are substantially co-planar on the first portion of the V-shape of the grid.

In regard to claims 6 and 16, while *Koziol* shows only one handle (18) attached to the first side of the first portion, to have included a second handle on this first side would have been simply a matter of duplicating this handle of *Koziol* and as such, this recitation is not regarded as patentably distinct. See MPEP § 2144.04 (VI)(B).

In regard to claim 8 and 19, the recitation that the rack is; “configured to be used as a trivet on a countertop,” is simply a statement of intended use and given no patentable weight. Further, the rack of *Koziol* would function as a trivet.

In regard to claims 9-19, while *Koziol* does not expressly disclose an oven with a cooking chamber comprising a bottom surface and at least three sides, *Koziol* does clearly indicate that the cooking rack is intended to be used in an oven (see Abstract) and would be placed on the bottom surface thereof. It is well known in the art that ovens include cooking chambers with a bottom surface and at least three sides (e.g. see oven of *Carpenter et al.*). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made that the cooking rack of *Koziol* would be placed on the bottom surface of an oven, such as that disclosed in *Carpenter et al.*, for the purpose of supporting items to be cooked in the oven.

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DE 40 23 206, JP 64-84031, *Miller et al. Ondrasik*, and *Protas* are included to further show the state of the art concerning oven rack structure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett, can be reached at (703) 308-0101. The fax phone numbers for this Group are (703) 308-7764 for regular communications and (703) 305-3463 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc
February 24, 2003


JOSIAH COCKS
PATENT EXAMINER
ART UNIT 3743